



WYOMING DEPARTMENT OF CORRECTIONS

Policy and Procedure #4.315 Administration of Psychotropic Medication

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Authority: Wyoming Statute(s): 25-1-104; 25-1-105 ACA Standard(s): 4-4401; 1-ABC-4E-18 NCCHC Standard(s): P-I-02	Effective Date: July 30, 2015 Revision/Review History: 06/01/14 06/01/13 07/17/12 07/17/11 Summary of Revision/Review: Updates existing policy pursuant to annual review.
Cross Reference of Policy:	Supersedes Existing Policy :
Approved: R.O. Lampert Robert O. Lampert, Director	
7-17-15 Date	

APPROVED FOR INMATE DISTRIBUTION

REFERENCE

1. ATTACHMENTS – None Noted
2. OTHER
 - A. *Washington v. Harper*, 494 U.S. 210 (1990)



I. PURPOSE

- A. **Involuntary Administration of Psychotropic Medications.** The purpose of this policy is to establish guidelines for the involuntary administration of psychotropic medications to inmates in Wyoming Department of Corrections (WDOC) facilities.

II. POLICY

- A. **General Policy.** It is the policy of the WDOC that when psychotropic medications are ordered for treatment of mental illnesses, the prescribing psychiatrist will attempt to obtain the inmate's informed consent. In all situations involving involuntary medication, the principles of good professional practice will prevail. For involuntary medication to be approved, it must be demonstrated that the inmate has a mental illness and as a result of that illness there exists a likelihood of serious harm to the inmate, others or property; or the inmate is gravely disabled, and that the treatment is in the inmate's medical interest.
- B. **Requirements for Involuntary Administration.** The involuntary administration of psychotropic medication(s) to an inmate shall be governed by this policy and applicable state and federal laws and regulations. When administered, the following conditions must be met (ACA 4-4401, 1-ABC-4E-18; NCCHC P-I-02):
1. Authorization is by a psychiatrist who specifies the duration of therapy;
 2. Less restrictive intervention options have been exercised without success as determined by the psychiatrist;
 3. Details are specified about why, when, where, and how the medication is to be administered;
 4. Monitoring occurs for adverse reactions and side effects; and
 5. Treatment plan goals are prepared for less restrictive treatment alternatives as soon as possible.

III. DEFINITIONS



- A. **Emergency:** *(For this policy only.)* An immediate and serious danger to life or health.
- B. **Gravely Disabled:** *(For this policy only.)* A condition in which an inmate, as a result of a mental illness, manifests a deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over behavior which creates a danger of serious physical and/or psychological harm to the inmate and/or serious physical injury to others or property.
- C. **Guardian:** A person appointed by a court of law to manage the affairs of a legally incapacitated person.
- D. **Legally Incapacitated:** A person who has been found by a court of law to be unable, without assistance, to properly manage or take care of their personal affairs.
- E. **Likelihood of Serious Physical Injury:** *(For this policy only.)* A substantial risk that an inmate will inflict serious physical injury:
1. Upon the inmate, as evidenced by recent threats or attempts to commit suicide or self-inflicted physical injury; or
 2. Upon another, as evidenced by recent behavior which has caused such harm or has placed another person in reasonable fear of sustaining such injury; or
 3. Upon self or another by means of damaging property, as evidenced by recent behavior which has caused such injury or has placed another person in reasonable fear of sustaining such injury; or
 4. Upon the inmate, another, or by damage to property, as evidenced by recent behavior or thinking which, in examining the inmate's prior medical history, is associated with a pattern of behaviors leading to such injury or damage.
- F. **Material Risk:** *(For this policy only.)* A risk that may have a substantial adverse effect on the inmate's psychological and/or physical health.
- G. **Mental Illness:** A physical, emotional, mental or behavioral disorder which causes a person to be dangerous to himself, or others and which requires treatment, but does not include addiction to drugs or alcohol, drug or alcohol intoxication or developmental disabilities, except when one (1) or more of those conditions co-occurs as a secondary diagnosis with a mental illness.



- H. **Physical Injury:** *(For this policy only.)* Impairment of physical condition or substantial pain.
- I. **Psychotropic Medications:** The class of medications that impact central nervous system activity and are commonly used for the treatment of mental illnesses. Types of medications within the class of psychotropic medications include, but are not limited to, neuroleptics (antipsychotics), lithium, and antidepressants.
- J. **Serious Physical Injury:** *(For this policy only.)* Injury which creates a substantial risk of death, causes serious and protracted disfigurement, impairment of health, or loss or impairment of the function of any bodily organ.
- K. **Treatment Plan:** The comprehensive plan of medical, psychiatric, psychological, and psychosocial interventions used to guide treatment providers in assisting an inmate to accomplish the inmate's goals for behavioral change. One aspect of a treatment plan may be psychotropic medications.

IV. PROCEDURE

- A. **General Policy on Obtaining Informed Consent for Administration of Psychotropic Medications**
 - 1. **Capacity of the Inmate to Give Informed Consent**
 - i. Inmates from whom informed consent to treatment with psychotropic medications is being sought shall be presumed competent to give consent unless:
 - a. The inmate has been found by a court to be legally incapacitated and a copy of the court order is in the inmate's file; or
 - b. In the clinical opinion of the treating psychiatrist, the inmate currently demonstrates an inability to comprehend and weigh one or more factors involved in making informed consent as provided in Section IV.B.1. of this policy.
 - 2. In determining the inmate's ability to comprehend and weigh the factors the treating psychiatrist shall:



- vi. The predicted medical/psychiatric consequences of not accepting the recommended medication; and
 - vii. That consent may be refused, withheld or withdrawn at any time and that withholding consent for more than forty-eight (48) hours constitutes refusal.
- 2. The treating psychiatrist shall ask the inmate or guardian if they would like additional information concerning the recommended medication, and shall provide such information on request.
- 3. The treating psychiatrist recommending administration of a psychotropic medication shall document by notation in the inmate's treatment record:
 - i. That the information required in Section IV.B.1., above, was explained; and
 - ii. Whether the inmate or guardian explicitly consented, refused, or withheld consent; and
 - iii. Whether the inmate or guardian requested and received additional information.
- 4. Psychotropic medications may not be administered to an inmate who has been found legally incapacitated without the consent of the guardian, except in the case of an emergency.
- 5. **Reports of Progress.** Upon request, an inmate or guardian shall be informed of the progress of the inmate during the administration of psychotropic medications.

C. Consent Options - Exceptions to Informed Consent

- 1. Inmates deemed able to consent pursuant to Section IV.A. of this policy may:
 - i. Consent to voluntary administration;
 - ii. Withhold consent for up to forty-eight (48) hours for the purpose of obtaining additional information;
 - iii. Refuse consent; or



- iv. At any time withdraw consent previously given.
- 2. Any consent, refusal, or withholding of consent shall be documented in the inmate's treatment record, regardless of the treating psychiatrist's determination of capacity in Section IV.A. of this policy.
- 3. Inmates withholding consent for forty-eight (48) hours shall be considered to have refused consent.
- 4. Where consent previously given is withdrawn, the person to whom the inmate's decision is communicated shall document the withdrawal of consent and the reason for withdrawal by notation in the inmate's treatment record and shall obtain the inmate's signature, when possible, to confirm the withdrawal.
- 5. Psychotropic medications shall be administered to an inmate only after first obtaining written informed consent from the inmate, or the guardian of a legally incapacitated inmate, in the manner prescribed in this policy, except as follows:
 - i. Administration of psychotropic medications to legally incapacitated inmates as provided in Section IV.B.4 of this policy;
 - ii. Administration of psychotropic medications without informed consent in emergencies as provided in Section IV.D. of this policy; and
 - iii. Involuntary administration of psychotropic medications for good cause as provided in Section IV.E. of this policy.

D. Emergency Administration of Psychotropic Medications without Informed Consent

- 1. An emergency that is sufficient to allow the administration of psychotropic medications without informed consent exists, if in the opinion of the treating psychiatrist, an inmate has a mental illness and as a result of that illness:
 - i. Immediate administration of psychotropic medication is medically necessary to preserve the life or health of the inmate; or
 - ii. Immediate administration of psychotropic medication is medically necessary because the inmate's behavior creates a likelihood of serious physical injury to the inmate or others; or



iii. Refer the determination of good cause for review as provided in Section IV.F. of this policy.

5. Within seven (7) days of a determination that good cause exists for involuntary administration of medications subsequent to an emergency, a special committee shall review that determination as provided in Section IV.F. through Section IV.J. of this policy.

E. Good Cause for Involuntary Administration of Psychotropic Medications to Inmates

1. Good cause exists for recommending involuntary administration of psychotropic medications if, in the opinion of the treating psychiatrist the following conditions exist:

i. The inmate is suffering from a mental illness and as a result of the illness:

a. The inmate is gravely disabled; or

b. The inmate's behavior creates a likelihood of serious harm to self or others.

ii. The inmate:

a. Is deemed not competent to give informed consent to administration of psychotropic medications as provided in Section IV.A. of this policy; or

b. Has refused to give informed consent to the administration of psychotropic medications.

iii. The use of psychotropic medications is clinically indicated for:

a. Restoring or preventing deterioration of the inmate's mental or physical health; or

b. Alleviating extreme suffering; or

c. Saving or extending the inmate's life.

iv. Psychotropic medications are the most appropriate treatment for the inmate's condition according to current clinical practice;



- v. Other less intrusive procedures have been considered and the reasons for rejecting those procedures have been documented in the inmate's treatment record; and
- vi. The treating psychiatrist attempted to first obtain the inmate's written informed consent.

F. Review of Treating Psychiatrist's Determination of Good Cause by a Special Committee

1. Prior to the involuntary administration of psychotropic medications for good cause, the treating psychiatrist shall refer his or her recommendation for review to a special committee who will convene a medication review hearing.
 - i. The special committee shall consist of a psychiatrist, a psychologist, and the Associate/Deputy Warden of the correctional facility, none of whom may be, at the time of the hearing, involved in the inmate's treatment or diagnosis.
2. The hearing may be held no more than ten (10) days after the treating psychiatrist submits a determination that good cause exists.

G. Notice of Hearing Required

1. Inmates subject to the involuntary administration process shall be given written notice at least twenty-four (24) hours in advance of the hearing by the special committee. The notice shall include:
 - i. The date and time of the hearing;
 - ii. The inmate's diagnosis;
 - iii. A statement of the clinical basis for the diagnosis;
 - iv. A statement of the clinical basis for the determination that involuntary administration of psychotropic medications is in the inmate's medical interest; and
 - v. An explanation of the inmate's rights.

H. Inmate Rights



- 1.** Inmate rights during the hearing process include:
 - i.** The right, upon request, to discontinue emergency medications administered pursuant to Section IV.D. of this policy for twenty-four (24) hours preceding the hearing and until the hearing adjourns;
 - ii.** The right to be present during the hearing;
 - iii.** The right to be heard in person and to present documentary evidence;
 - iv.** The right to present testimony through witnesses and to cross-examine witnesses that are called by the Department;
 - v.** The right to an advisor to assist in the articulation and presentation of the inmate's argument at the hearing;
 - vi.** The creation of a record of the hearing and a right to a copy of the record;
 - vii.** The right to appeal the decision of the special committee to the chief medical officer as provided in this policy; and
 - viii.** The right to retain counsel for the hearing at his/her own expense.
- 2. Assignment of Advisor**
 - i.** A health services staff member or contractor shall be assigned to act as the inmate's advisor in the hearing process;
 - ii.** In assisting the inmate to articulate their objection to the recommended medications, the advisor shall:
 - a.** Inform the inmate of his/her right to retain counsel for the hearing at his/her own expense;
 - b.** Interview the inmate and discuss the psychiatric issues involved, and the inmate's options;
 - c.** Assist the inmate in articulating a list of witnesses and questions for witnesses as required in Section IV.H.4. of this policy;



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- d. Review the inmate's treatment record, including records of efforts made to obtain informed consent;
 - e. Be provided a copy of this policy;
 - f. Be provided an opportunity to review any other evidence presented by the Department upon which the recommendation for involuntary administration of medications is based;
 - g. Be competent to understand and interpret the inmate's rights and the hearing process;
 - h. Have an understanding of the psychiatric diagnosis and issues that the case may present; and
 - i. Appear with the inmate at the hearing before the special committee.
3. Non-English speaking inmates or inmates who are hearing impaired, should be provided assistance by an employee or a translator to ensure their understanding.
4. If the inmate wishes to present or cross-examine witnesses, he/she must provide a written request to the special committee prior to the hearing, listing the names of requested witnesses and the questions to be asked of each witness.
5. The inmate's right to be present at the hearing may be limited because of his/her medical condition or because of other specific reasons relating to the interest of institutional safety and security.
6. Reasons for the limitation of the right to present and cross-examine witnesses include, but are not limited to:
 - i. Irrelevance;
 - ii. Redundancy;
 - iii. Other specific reasons relating to the interest of institutional safety and security.
7. The reasons for any limitation of the inmate's rights shall be specified orally at the hearing and in writing as part of the final decision.



I. Scope of Review

1. The special committee shall:
 - i. Review the inmate's treatment record, including the records of efforts made to obtain informed consent;
 - ii. Discuss the matter with the inmate and witnesses;
 - iii. Review the evidence presented by the Department upon which the recommendation for involuntary administration of medications is based; and
 - iv. Consider additional information, if any, presented at the time of the review by the inmate, the advisor, the Department, or witnesses.
2. The record of the hearing shall be the documents and statements relied on by the special committee as noted in the report. Copies of all documents shall be made a part of the inmate's treatment record.

J. Determination of the Special Committee

1. In each hearing the special committee shall determine:
 - i. Whether the treatment record contains a sound medical diagnosis supported by sufficient clinical documentation;
 - ii. The capacity of the inmate to give informed consent as provided in Section IV.A. of this policy;
 - iii. The reasons for the inmate's refusal or withdrawal of consent, if the inmate has refused or withdrawn consent;
 - iv. Whether the inmate's behavior constitutes good cause for involuntary administration of psychotropic medications as provided in Section IV.E. of this policy;
 - a. If the committee determines by a majority vote that the inmate's behavior constitutes good cause for involuntary administration of psychotropic medications as provided in Section IV.E. of this policy, the inmate may be medicated against his will, provided the psychiatrist is in the majority.



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- v. Whether the reasons given for rejecting less intrusive procedures are medically sound; and
 - vi. Whether the involuntary administration of psychotropic medication is in the inmate's medical interest.
 - 2. The special committee shall not approve involuntary administration of psychotropic medications unless it is determined that good cause exists and the involuntary administration of psychotropic medications is in the inmate's best medical interest.
 - 3. The special committee shall prepare a written report of the decision containing a summary of evidence presented and specific reasons for approving or disapproving involuntary administration of psychotropic medications. This report shall be provided to:
 - i. The chief medical officer of the facility;
 - ii. The inmate for whom involuntary administration of psychotropic medications is recommended; and
 - iii. The treating psychiatrist.
 - 4. A copy of the special committee's report shall be made part of the inmate's treatment record.
 - 5. Approval of the involuntary administration of psychotropic medications shall be effective for one-hundred eighty (180) days.
- K. Appeal of the Special Committee Determination**
 - 1. The inmate may appeal the determination of the special committee in writing to the facility chief medical officer within twenty-four (24) hours after the determination has been communicated to the inmate.
 - 2. Upon receipt of the inmate's request for appeal, the chief medical officer shall review the appeal and the report of the special committee.
 - 3. Except in emergencies as provided in this rule, medications will not be involuntarily administered until the chief medical officer has decided the appeal.



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4. The chief medical officer shall approve or disapprove the special committee's decision within twenty-four (24) hours of receiving the inmate's request for appeal.
5. Written notice of the chief medical officer's decision on appeal shall be provided to the inmate and made part of the inmate's treatment record.
6. In the absence of the chief medical officer the notice of appeal will be given to the Department's clinical director who shall either decide the appeal or delegate that decision to the chief medical officer of another Department of Corrections facility.

L. Periodic Review

1. When psychotropic medications are involuntarily administered pursuant to this policy, the treating psychiatrist shall:
 - i. Submit a progress report to the facility chief medical officer every thirty (30) days; and
 - ii. Place a copy of the progress report in the inmate's treatment record.
2. The progress report shall document the inmate's response to medications, including the inmate's attitude toward the medication and any changes in medication or side effects, and will indicate the treating psychiatrist's prognosis of the inmate's need for medications.
3. Discontinuation of medications or voluntary consent to medications shall be included in the progress report.
4. The facility chief medical officer shall submit to the clinical director an annual report describing all involuntary administration of psychotropic medications.

M. Psychotropic Medication Order and Follow-up

1. The order for psychotropic medication(s) must specify the name and dosage of the medication, frequency of dosage, route of administration, and timeframe for that order.
2. Healthcare or mental health care staff shall monitor the inmate for adverse reactions and side effects from the medication.



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V. TRAINING POINTS

- A.** When is an inmate deemed unable to give informed consent to administration of psychotropic medications?
- B.** Name at least three (3) components of emergency administration of psychotropic medication.
- C.** What constitutes good cause for involuntary administration of psychotropic medications?
- D.** Name at least three (3) rights of the inmate during the special committee's good cause review.